

105TH CONGRESS
1ST SESSION

H. R. 1647

To establish a Small Business Development Fund to promote economic revitalization and community development through investment in, and assistance to, qualified women and minority business people.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1997

Ms. WATERS (for herself, Mr. CUMMINGS, Mr. HILLIARD, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. THOMPSON, Ms. BROWN of Florida, Mr. RUSH, Mr. TOWNS, Mr. DIXON, Mr. STOKES, Mr. CONYERS, Mr. DELLUMS, Mr. RANGEL, Mrs. CLAYTON, Ms. KILPATRICK, Mr. CLYBURN, Mr. FORD, Mr. DAVIS of Illinois, Mr. OWENS, Mr. WATT of North Carolina, Mr. WYNN, Mr. SCOTT, Mr. HASTINGS of Florida, Ms. CHRISTIAN-GREEN, Ms. CARSON, Ms. NORTON, Mr. PAYNE, Mr. CLAY, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FATTAH, Mr. LEWIS of Georgia, and Ms. MILLENDER-McDONALD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Small Business Development Fund to promote economic revitalization and community development through investment in, and assistance to, qualified women and minority business people.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE**

2 This Act may be referred to as the “Small Business
3 Development Fund Act of 1997”.

4 **SEC. 2. TAX ON CAPITAL GAINS REDUCTION STRATEGY**
5 **AMOUNT OR ALTERNATIVE DENIAL OF IN-**
6 **TEREST DEDUCTION ON CERTAIN DEBT IN-**
7 **STRUMENTS, AND ESTABLISHMENT OF**
8 **TRUST FUND TO RECEIVE TAX AMOUNTS.**

9 (a) IMPOSITION OF TAX IF DECREASE IN CAPITAL
10 GAINS RATE ENACTED IN 1997.—

11 (1) IN GENERAL.—Part I of subchapter P of
12 chapter 1 of the Internal Revenue Code of 1986 (re-
13 lating to treatment of capital gains) is amended by
14 adding at the end the following new section:

15 **“SEC. 1203. TAX ON CAPITAL GAINS REDUCTION STRATEGY**
16 **AMOUNT.**

17 “(a) IN GENERAL.—There is hereby imposed, on
18 each taxpayer which has a 50 percent strategy-based re-
19 duction for the taxable year, a tax equal to 1 percent of
20 the capital gains reduction strategy amount for the taxable
21 year.

22 “(b) 50 PERCENT STRATEGY-BASED REDUCTION.—
23 For purposes of this section, a taxpayer has a 50 percent
24 strategy-based reduction for the taxable year if—

1 “(1) the amount of tax imposed by this title for
2 the taxable year on capital gains of the taxpayer is
3 50 percent or less of,

4 “(2) the amount of tax which would have been
5 imposed by this title for the taxable year on capital
6 gains of the taxpayer but for the use of applicable
7 tax reduction strategies by the taxpayer (or by a
8 party to a transaction with the taxpayer or by a per-
9 son related to the taxpayer or to such party), as de-
10 termined by the Secretary.

11 The Secretary shall make the determination required
12 under paragraph (2) by reference to transactions which
13 would have yielded substantially the same non-tax result.
14 For purposes of this subsection, the amount of tax im-
15 posed by this title (or the amount described in paragraph
16 (2) which would have been so imposed) which is attrib-
17 utable to capital gains shall be the amount determined by
18 the Secretary pursuant to regulations.

19 “(c) CAPITAL GAINS REDUCTION STRATEGY
20 AMOUNT.—For purposes of this section, the term ‘capital
21 gains reduction strategy amount’ means the excess of—

22 “(1) the amount described in subsection (b)(2),
23 over

24 “(2) the amount described in subsection (b)(1).

1 “(d) APPLICABLE TAX REDUCTION STRATEGY.—For
2 purposes of this section—

3 “(1) IN GENERAL.—With respect to any trans-
4 action, the term ‘applicable tax reduction strategy’
5 means any product, method, strategy, or action—

6 “(A) generally used by taxpayers primarily
7 for the purpose of reducing the tax under this
8 title on capital gains, and

9 “(B) identified by the Secretary, on a list
10 published under paragraph (2), as being an ap-
11 plicable tax reduction strategy for purposes of
12 the calendar quarter in which such transaction
13 occurs.

14 “(2) QUARTERLY LISTING.—Not less than once
15 each calendar quarter, the Secretary shall publish in
16 the Federal Register a list of applicable tax reduc-
17 tion strategies for purposes of the next calendar
18 quarter.”

19 (2) CLERICAL AMENDMENT.—The table of sec-
20 tions for part I of subchapter P of chapter 1 of such
21 Code is amended by adding at the end the following
22 new item:

“Sec. 1203. Tax on capital gains reduction strategy amount.”

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection—

1 (A) shall take effect only if a decrease in
 2 the maximum Federal tax rate applicable to
 3 capital gains of individuals is enacted in 1997,
 4 and

5 (B) if the conditions of subparagraph (A)
 6 are met, shall apply to taxable years beginning
 7 after the date of the enactment of this Act.

8 (b) DENIAL OF INTEREST DEDUCTION ON CERTAIN
 9 DEBT INSTRUMENTS IF CAPITAL GAINS RATE DECREASE
 10 NOT ENACTED IN 1997.—

11 (1) IN GENERAL.—Section 385 of such Code
 12 (relating to treatment of certain interests in corpora-
 13 tions as stock or indebtedness) is amended by add-
 14 ing at the end the following new subsection:

15 “(d) CERTAIN INTERESTS TREATED AS STOCK.—

16 “(1) INTERESTS WITH OVER-40-YEAR MATURITY
 17 OR PAYABLE IN STOCK.—

18 “(A) IN GENERAL.—Notwithstanding sub-
 19 section (c), for purposes of this title, an interest
 20 in a corporation shall be treated as stock if
 21 such interest—

22 “(i) has a maximum weighted average
 23 maturity of over 40 years, or

24 “(ii) is payable in stock of the issuer
 25 or a related person.

1 “(B) WEIGHTED AVERAGE MATURITY.—

2 For purposes of subparagraph (A), in determin-
3 ing the weighted average maturity of an inter-
4 est, any right to extend or renew shall be treat-
5 ed as exercised, and any right to accelerate pay-
6 ment shall not be taken into account.

7 “(C) PAYABLE IN STOCK.—For purposes
8 of subparagraph (A), an interest shall be treat-
9 ed as payable in stock if—

10 “(i) a substantial portion of such in-
11 terest is mandatorily convertible, or con-
12 vertible at the issuer’s option, into stock of
13 the issuer or a related person,

14 “(ii) a substantial portion of the prin-
15 cipal (or interest) associated with such in-
16 terest is required to be determined, or may
17 be determined at the option of the issuer
18 or a related person, by reference to the
19 value of stock of the issuer or a related
20 person, or

21 “(iii) such interest is part of an ar-
22 rangement designed to result in the pay-
23 ment of such interest with stock of the is-
24 suer or a related person.

1 “(2) CERTAIN INTERESTS NOT CLASSIFIED AS
2 INDEBTEDNESS IN SEC FILING.—

3 “(A) IN GENERAL.—For purposes of sub-
4 section (c), an issuer shall be treated as charac-
5 terizing an interest as stock (and subsection
6 (c)(2) shall not apply) if—

7 “(i) such issuer is a corporation re-
8 quired to file annual financial statements
9 with the Securities and Exchange Commis-
10 sion,

11 “(ii) such financial statements do not
12 characterize such interest as indebtedness,
13 and

14 “(iii) such interest has a maximum
15 weighted average maturity of more than 15
16 years.

17 “(B) SPECIAL RULES.—For purposes of
18 this paragraph—

19 “(i) CHARACTERIZATION IN FINAN-
20 CIAL STATEMENTS.—An interest shall not
21 be treated as characterized in a financial
22 statement solely by reason of footnotes or
23 other narrative disclosures.

24 “(ii) CERTAIN INTERESTS TREATED
25 AS CHARACTERIZED IN STATEMENT.—An

1 issuer will be treated as being described in
2 subparagraph (A)(ii) with respect to an in-
3 terest if—

4 “(I) the issuer issues such inter-
5 est to a related person (other than a
6 corporation),

7 “(II) such interest is not in-
8 cluded on the consolidated return
9 which includes the issuer and the
10 holder, and

11 “(III) the holder (or any person
12 related to the issuer or the holder) is-
13 sues a related interest which is not
14 characterized as indebtedness on the
15 consolidated financial statement.

16 “(iii) LEVERAGED LEASES.—This
17 paragraph shall not apply with respect to
18 leveraged leases.

19 “(3) EXCEPTIONS.—This subsection shall not
20 apply with respect to demand loans, redeemable
21 ground rents, or any other interest specified by the
22 Secretary by regulation.

23 “(4) RELATED PERSON.—For purposes of this
24 subsection, persons shall be treated as related to

1 each other if the relationship between such persons
 2 is described in section 267(b) or 707(b).”

3 (2) EFFECTIVE DATE.—The amendment made
 4 by this subsection—

5 (A) shall take effect only if no decrease in
 6 the maximum Federal tax rate applicable to
 7 capital gains of individuals is enacted in 1997,
 8 and

9 (B) if the conditions of subparagraph (A)
 10 are met, shall apply to taxable years beginning
 11 after the date of the enactment of this Act.

12 (c) SMALL BUSINESS DEVELOPMENT FUND.—

13 (1) IN GENERAL.—Subchapter A of chapter 98
 14 of such Code (relating to establishment of trust
 15 funds) is amended by adding at the end the follow-
 16 ing new section:

17 **“SEC. 9512. SMALL BUSINESS DEVELOPMENT FUND.**

18 “(a) CREATION OF TRUST FUND.—There is estab-
 19 lished in the Treasury of the United States a trust fund
 20 to be known as the ‘Small Business Development Fund’,
 21 consisting of such amounts as may be appropriated or
 22 credited to such fund as provided in this section or section
 23 9602(b).

24 “(b) TRANSFERS TO TRUST FUND.—There are here-
 25 by appropriated to the Small Business Development Fund

1 amounts equivalent to the taxes received in the Treasury
 2 under section 1203 (relating to tax on capital gains reduc-
 3 tion strategy amount) or 385(d), whichever is applicable.

4 “(c) EXPENDITURES.—Amounts in the Small Busi-
 5 ness Development Fund shall be available, as provided in
 6 appropriation Acts, for purposes of the Small Business
 7 Development Fund Act of 1997.”

8 (2) CLERICAL AMENDMENT.—The table of sec-
 9 tions for subchapter A of chapter 98 of such Code
 10 is amended by adding at the end the following new
 11 item:

“Sec. 9512. Small Business Development Fund.”

12 (3) EFFECTIVE DATE.—The amendments made
 13 by this subsection shall apply to taxable years begin-
 14 ning after the date of the enactment of this Act.

15 **SEC. 3. APPLICATION FOR ASSISTANCE**

16 (a) FORM AND PROCEDURES.—An application for as-
 17 sistance shall be submitted in such form and in accordance
 18 with such procedures as established by the Secretary of
 19 Commerce.

20 (b) MINIMUM REQUIREMENTS.—The Fund shall re-
 21 quire an application to establish that the applicant is—

- 22 (1) a credit union,
- 23 (2) a community development corporation,
- 24 (3) an entity engaged in job creation or enter-
 25 prise and commercial development, or

1 (4) a financial institution that needs capital to
2 begin or expand a small business activity in a low-
3 income community.

4 **SEC. 4. ASSISTANCE PROVIDED BY THE FUND**

5 The Fund may provide financial assistance to the en-
6 tities listed in section 4(b) through equity investments, de-
7 posits, credit union shares, loans, and grants.

8 **SEC. 5. DEFINITION**

9 The term “community development corporation” has
10 the meaning given such term in section 103(1) of the
11 Community Development Banking and Financial Institu-
12 tions Act of 1994 (12 USC 4702(1)).

○